HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 18765 OF 2007

DATE: 14.09.2007

Between:

B.Santosha Kumari & another

..... PETITIONERS

AND

The Superintendent of Police,
Chittoor District, Chittoor & 2 others.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 18765 OF 2007

ORDER: (Per Hon'ble Sri Justice P. Swaroop Reddy)

This is a Writ Petition filed by one B.Santoshi Kumari & another claiming that her second daughter Sujatha was given in marriage to the

third respondent herein having solemnized the marriage on 22.1.1995 at Tirupati. At the time of marriage, the third respondent was working as Judicial First Class Magistrate, at Srikalahasti. The third respondent and her daughter lived happily for some time and later she learnt that the third respondent tortured her daughter Sujatha in a sadistic way apart from demanding additional dowry. During the life time, her daughter disclosed the same to her. Due to mental and physical harassment and torture, her daughter's health deteriorated and in January, 2000 she was brought to Tirupathi and they got treated her by admitting in several hospitals including the Apollo Hospital at Chennai, but she died on 14.1.2000. That out of the wedlock, the couple begot one daughter by name Divyasri, now aged about 10 years and one son Rohit, now aged about 8 years. That her daughter-in-law and son brought up Rohit, whereas, the third respondent has been looking after his daughter Divyasri throughout, after the death of her daughter Sujatha. The boy Rohit was admitted in Dolphin School at Kodur and then at Tirupathi in various schools. The third respondent was looking after his daughter Divyasri, but he never came to see the boy. One year after the death of her daughter, the third respondent married one Sudha Rani. They were also blessed with a daughter. That in the month of May, 2007, the third respondent forcibly took away Rohit saying that he cannot allow his son to stay with others. Thereafter, she learnt that the boy Rohit is not being looked after well by third respondent. Several other averments are made in the affidavit filed in support of the petition, which are not much relevant and they prima facie appear to be untrue.

The petitioners admitted that the daughter born through the deceased Sujatha is living with the third respondent and there is no

allegation of any harassment of her. If that is so, it is difficult to believe that the third respondent is ill-treating son Rohit. The contention that the stepmother is not treating Rohit well is also not acceptable as the allegation is not that the stepmother is not looking well the daughter Divyasri also. Whatever it is, in case of this nature, appropriate remedy would be to approach the civil Court/Family Court under the Hindu Minority and Guardianship Act, 1956 for custody of the child and it is not a case for entertaining under Article 226 of constitution of India as a Writ of Habeas corpus.

In the circumstances, the Writ Petition is dismissed. The petitioners, if so advised, may approach the appropriate Court under the Hindu Minority and Guardianship Act, 1956 in which event, that Court shall dispose of any such petition on merits uninfluenced by any observations made in this order.

The Writ Petition is accordingly dismissed. No costs.

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A. GOPAL REDDY, J.

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14th SEPTEMBER, 2007 P. SWAROOP REDDY, J.

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